



Sayali Upasani

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 2817 OF 2023

Rahul Maganlal Jain @ Bagmar

...Applicant

Vs.

The State of Maharashtra

...Respondent

Mr. Ganesh K. Gole with Mr. Ritesh Ratnam i/b Mr. Amol R. Patil, for Applicant.

Mrs. Ashwini A. Takalkar, APP for State.

Mr. S. N. More with Mr. A. Jadhav, for Intervenor.

CORAM:- N. J. JAMADAR, J.

DATED:- 7th OCTOBER, 2023

PC:-

1) Heard the learned counsel for the applicant and the learned APP for the State.

2) This is an application for pre-arrest bail in connection with C.R. No. 425 of 2023, registered with Panchavati police station, Nashik, for the offences punishable under Sections 403,

406, 417 and 420 read with Section 34 of Indian Penal Code, 1860 ("the Penal Code").

3) The applicant is the Chairman of Chirayu Nagari Co-operative Patsanstha. Priyanka Jain, accused No. 1, had pledged gold and availed loan from Chirayu Patsanstha. Accused No. 1 – Priyanka approached Rupeek Capital Pvt. Ltd., a Non-Banking Financial Company for the transfer of the said gold loan from Chirayu Patsanstha to that of Rupeek Capital Pvt. Ltd., of which the first informant is a Regional Manager.

4) It is the allegation of the first informant that initially the Chirayu Patsanstha gave No Due Certificate and agreed for transfer of the gold loan account. However, after Rupeek Capital Pvt. Ltd., transferred the amount of Rs.16,02,055/- to the account of accused No. 1- Priyanka, maintained with the Bank of Baroda and, thereafter, the said amount came to be transferred to Chirayu Patsanstha, the latter took a stand that the amount standing to the credit of the account of accused No. 1 Priyanka and gold pledged by her, were attached, and refused to hand over the gold pledged by accused No. 1 – Priyanka.

5) The learned Counsel for the applicant submitted that there was no privity of contract between the applicant – Society and

that of Rupeek. In fact, in pursuance of a certificate granted under Section 101 of Maharashtra Co-operative Societies Act, 1960 (“the Act, 1960”) on 22nd March, 2021, the gold pledged by the accused No. 1 – Priyanka was attached by an order dated 16th December, 2022. In fact, the Rupeek had intervened in the dispute filed before the Co-operative Court by accused No. 1- Priyanka against the Society. Yet suppressing all the facts, these Rupeek lodged a private complaint.

6) The learned Counsel for the first informant submitted that initially the Society had given a No-Due Certificate qua accused No. 1 – Priyanka and after the amount came to be credited, took the stand that the assets of accused No. 1- stood attached.

7) Prima facie, it does not appear that the Society had given consent for the transfer of the gold loan account and had agreed to deliver the gold pledged by the accused No. 1. There are documents, which indicate that before the gold loan account could be transferred, proceedings were initiated under Section 101 of the Act, 1960 and the order of attachment was also passed. The legality and validity of the attachment order can be questioned before the appropriate forums in appropriate

proceedings. However, prima facie, there does not appear any element of criminality.

8) In any event, to facilitate further investigation custodial interrogation of the applicant is not warranted as the offences revolve around documents. The applicant appears to have roots in society. Possibility of tempering with evidence and fleeing away from justice seems remote.

9) I am, thus, impelled to exercise the discretion in favour of the applicant.

10) Hence, the following order:-

ORDER

I) In the event of arrest of the applicant in connection with C.R. No. 425 of 2023, registered with Panchavati police station, Nashik, for the offences punishable under Sections 403, 406, 417 and 420 read with Section 34 of Indian Penal Code, 1860, the applicant be released on bail on executing a PR Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.

II) The applicant shall co-operate with the investigation and attend Panchavati police station, Nashik, on 16th and

17th October, 2023 in between 10.00 am to 1.00 pm and, thereafter, as and when directed by Investigating Officer.

III) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant and any of the persons acquainted with the facts of the case.

IV) It is clarified that these *prima facie* observations are confined to determine the entitlement to pre-arrest bail only.

V) The application stands disposed.

[N. J. JAMADAR, J.]